

Let writs of *subpœna* and injunction issue, as prayed by the said bill of complaint; except that the defendant is not to be enjoined as prayed to remove the said fence heretofore erected.

seized and possessed of the said land as tenants in common, and used the same accordingly until the year 1785, previous to which period, sundry valuable improvements had been erected on a part of it by the plaintiff; that these parties in the year 1784, by their joint labour and expense, made a public road through the said land, from Baltimore to the river Patapsco, where they had established a ferry, erected a ferry-house, &c.; which ferry was carried on by them jointly, and the net profits thereof divided between them weekly; that on the 12th of November, 1785, these parties entered into an agreement for a partition, whereby, that part on which the buildings had been erected was assigned to the plaintiff, and the other part, adjoining the ferry, was allotted to the defendant, that certain persons were thereby nominated and appointed to make the division, so that each should have an equal quantity of wood and land; and to adjudge and ascertain the difference of soil; and that proper judges should be appointed to ascertain the value of the buildings on each part, which was to be accounted for in the settlement between the parties; in which division and valuation, however, the ferry and its appendages, were not to be taken into consideration, or valued and divided; but to remain as joint property, and the profits thereof to be equally divided between them; that on the 12th of December, 1785, the referees awarded, that the defendant should pay to the plaintiff the sum of £400, for the difference of soil, which sum the plaintiff agreed to take, that three skilful persons were chosen to value the improvements, who awarded, that the improvements on the plaintiff's part amounted to £1,290 5s. 2d. and those on the defendant's part amounted to £215 0s. 0d.; so that the balance due from the plaintiff to the defendant, on account of improvements, amounted to the sum of £537 12s. 7d. which were exclusive of the ferry and its benefits; that in pursuance of the said agreement the parties entered upon, and became severally possessed of the parts of the tract called *United Friendship*, according to the division thus made; and had ever since so occupied and enjoyed the same, except the ferry, which was then, and had always since, been held by them as tenants in common, for their joint benefit; that in order to have a final settlement of all their dealings and transactions, certain persons were chosen and appointed to arbitrate, settle, and adjust all claims and demands between them, who met accordingly, on the 15th of June, 1787, and awarded a balance to be due to the plaintiff of £168 0s. 4d. after allowing and crediting the before mentioned sums, awarded for differences of soil and improvements; which adjustment was always acquiesced in, and never called in question by the defendant until about the month of May last, that these parties had jointly held the ferry, and divided the profits thereof weekly from the time it was established until the 6th of September last, when the defendant, without any just cause, and in violation of their agreement, had disturbed the plaintiff in the possession of his moiety, taken the whole to his own use, and prevented the plaintiff from recovering any part of the profits thereof; that the average monthly profits of the ferry amounted to £35 or £40, to one-half of which the plaintiff was entitled.

Whereupon it was prayed, that the defendant might be compelled to execute deed of partition, according to the terms of the said division; that the defendant be ordered to account for the rents and profits of the ferry; that the plaintiff might be quieted in the possession and enjoyment of his half-part thereof; and that he might have such further and other relief as the nature of his case might require; and the a writ of injunction might be granted, directed to the defendant, 'commanding him